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LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th September, 1959:—

BILL No. 69 OF 1959

A bill further to amend the Mines Act, 1952.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mines (Amendment) Act, 1959. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Amendment of section 2.

35 of 1952.

2. Section 2 of the Mines Act, 1952 (hereinafter referred to as the principal Act) shall be re-numbered as sub-section (1) thereof and,—

(i) in sub-section (1) as so re-numbered,—

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(1) for clause (c), the following clause shall be substituted, namely:—

“(c) “agent”, when used in relation to a mine means any individual, whether appointed as such or not, who acts as the representative of the owner in respect of the management, control and direction of the mine or of any part thereof and as such superior to a manager under this Act;”

(2) after clause (i), the following clause shall be inserted, namely:—

“(ii) “managing agent” has the meaning assigned to it in the Companies Act, 1956;”

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10 of 1956.

(3) for clause (j), the following clauses shall be substituted, namely:—

‘(j) “mine” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes— 5

(i) all borings, bore holes and oil wells;

(ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course 10 of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of 15 refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings, in or adjacent to and belonging to a mine;

(vii) all workshops situated within the precincts 20 of a mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;

(viii) all power stations for supplying electricity solely for the purpose of working the mine or a 25 number of mines under the same management;

(ix) any premises for the time being used for depositing refuse from a mine, or in which any operation in connection with such refuse is being carried on, being premises exclusively occupied by 30 the owner of the mine;

(x) unless exempted by the Central Government by notification in the Official Gazette, any premises or part thereof, in or adjacent to and belonging to a mine, on which any process ancillary to the 35 getting, dressing or preparation for sale of minerals or of coke is being carried on;

(jj) "minerals" means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (which in turn include natural gas and petroleum);

(jjj) "month" means the period from the first day of any month reckoned according to the British calendar to the last day of the same month;";

(4) after clause (k), the following clause shall be inserted, namely:—

'(kk) "open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;";

(5) in clause (l), after the words "such liquidator* or receiver", the words "and in the case of a mine owned by a company, the business whereof is being carried on by a managing agent, such managing agent" shall be inserted;

(6) in clause (p), the words 'and each of such periods is called a "shift"' shall be added at the end;

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

'(2) A person working or employed in or in connection with a mine is said to be working or employed—

(a) "below ground" if he is working or employed—

(i) in a shaft which has been or is in the course of being sunk; or

(ii) in any excavation which extends below superjacent ground; and

(b) "above ground" if he is working in an open cast working or in any other manner not specified in clause (a).'

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. (1) The provisions of this Act, except those contained in sections 7, 8, 9, 44, 45 and 46, shall not apply to—

(a) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the

Substitution of new section for section 3.

Act not to apply in certain cases.

purpose of obtaining minerals for use or sale:

Provided that—

(i) not more than twenty persons are employed on any one day in connection with any such excavation;

(ii) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six meters or, in the case of an excavation for coal, fifteen meters; and

(iii) no part of such excavation extends below superjacent ground; or

(b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding moulding sand, glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, road metal, earth, fullers earth and lime stone:

Provided that—

(i) the workings do not extend below superjacent ground; or

(ii) where it is an open cast working—

(a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six meters;

(b) the number of persons employed on any one day does not exceed fifty; and

(c) explosives are not used in connection with the excavation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that, having regard to the circumstances obtaining in relation to a mine or part thereof or group or class of mines, it is necessary or desirable so to do, by notification in the Official Gazette, declare that any of the provisions of this Act, not set out in sub-section (1), shall apply to any such mine or part thereof or group or class of mines or any class of persons employed therein.

(3) Without prejudice to the provisions contained in sub-section (2), if at any time any of the conditions specified in the proviso to clause (a) or clause (b) of sub-section (1) is not fulfilled in relation to any mine referred to in that sub-section, the

provisions of this Act not set out in sub-section (1), shall become immediately applicable, and it shall be the duty of the owner, agent or manager of the mine to inform the prescribed authority in the prescribed manner and within the prescribed time about the non-fulfilment.”.

4. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 6.
Functions of
Inspectors.

“6. (1) The Chief Inspector may, with the approval of the Central Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing, authorise any Inspector named or any class of Inspectors specified in the order to exercise such of the powers of the Chief Inspector under this Act (other than those relating to appeals) as he may specify.

(2) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named or any class of Inspectors specified in the order of any power conferred on Inspectors under this Act.

(3) Subject to the other provisions contained in this section, the Chief Inspector shall declare the local area or areas within which or the group or class of mines with respect to which Inspectors shall exercise their respective powers.”.

5. In section 7 of the principal Act, in sub-section (2), for the words “of any register or other record”, the words “of any material or any plan, section, register or other record” shall be substituted.

Amendment
of section 7.

6. In section 12 of the principal Act, in clause (a), clause (b) and clause (c) of sub-section (1), for the word “nominated”, the word “appointed” shall be substituted.

Amendment
of section 12.

7. In section 14 of the principal Act, in sub-section (2), the words and figures beginning with “and every person” and ending with “Indian Penal Code” shall be omitted.

Amendment
of section 14.

8. In section 17 of the principal Act, after the word “management”, the word “, supervision” shall be inserted.

Amendment
of section 17.

9. In section 18 of the principal Act,—

Amendment
of section
18.

(i) the proviso to sub-section (2) shall be omitted; and

(ii) in sub-section (3), the words “Save as hereinbefore provided,” shall be omitted.

Amendment
of section
19.

10. In section 19 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In every mine effective arrangements shall be made to provide and maintain at suitable points conveniently situated a sufficient supply of cool and wholesome drinking water for all ⁵ persons employed therein:

Provided that in the case of persons employed below ground the Chief Inspector may, in lieu of drinking water being provided and maintained at suitable points, permit any other effective arrangement to be made for such supply.”: 10

Substitution
of new sec-
tions for sec-
tions 21 and
22.

Medical
appliances.

11. For sections 21 and 22 of the principal Act, the following sections shall be substituted, namely:—

“21. (1) In every mine there shall be provided and maintained so as to be readily accessible during all working hours such number of first-aid boxes or cup-boards equipped with such ¹⁵ contents as may be prescribed.

(2) Nothing except the prescribed contents shall be kept in a first-aid box or cup-board or room.

(3) Every first-aid box or cup-board shall be kept in the charge of a responsible person who is trained in such first-aid ²⁰ treatment as may be prescribed and who shall always be readily available during the working hours of the mine.

(4) In every mine there shall be made so as to be readily available such arrangements as may be prescribed for the conveyance to hospitals or dispensaries of persons who, while ²⁵ employed in the mine, suffer bodily injury or become ill.

(5) In every mine wherein more than one hundred and fifty persons are employed, there shall be provided and maintained a first-aid room of such size with such equipment and in the charge of such medical and nursing staff as may be ³⁰ prescribed.

Powers of
Inspectors -
when causes
of danger not
expressly
provided
against exist
or when
employment
of persons is
dangerous.

22. (1) If, in respect of any matter for which no express provision is made by or under this Act, it appears to the Chief Inspector or an Inspector that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with ³⁵ the control, supervision, management or direction thereof, is dangerous to human life or safety or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in respect of which ⁴⁰

he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice.

5 (1A) Where the owner, agent or manager of a mine fails to comply with the terms of a notice given under sub-section (1) within the period specified therein, the Chief Inspector or the Inspector, as the case may be, may, by order in writing, prohibit the employment in or about the mine or any part thereof of
10 any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice.

(2) Without prejudice to the provisions contained in sub-section (1), the Chief Inspector or the Inspector, as the case may be, may, by order in writing addressed to the owner, agent or
15 manager of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in any mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life
20 or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or
25 flooding.

(3) If the Chief Inspector, or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine
30 or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Where a notice has been given under sub-section (1) or an order made under sub-section (1A), sub-section (2) or sub-section (3) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief
35 Inspector who may confirm, modify or cancel the notice or order.
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(5) The Chief Inspector or the Inspector sending a notice under sub-section (1) or making an order under sub-section

(1A), sub-section (2) or sub-section (3) and the Chief Inspector making an order (other than an order of cancellation in appeal) under sub-section (4) shall forthwith report the same to the Central Government.

(6) If the owner, agent or manager of the mine objects to a notice sent under sub-section (1) by the Chief Inspector or to an order made by the Chief Inspector under sub-section (1A) or sub-section (2) or sub-section (3) or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government which shall refer the same to a Committee.

(7) Every notice under sub-section (1), or order under sub-section (1A), sub-section (2), sub-section (3) or sub-section (4), to which objection is made under sub-section (6), shall be complied with, pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1), pending its decision on the objection.

(8) Nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1898."

5 of 1898.

Amendment
of section
23.

12. In section 23 of the principal Act,—

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(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Whenever there occurs in or about a mine—

(a) an accident causing loss of life or serious bodily injury, or

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(b) an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or

(c) an influx of inflammable or noxious gases, or

(d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or

(e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or

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(f) a premature collapse of any part of the workings,

or

(g) any other accident which may be prescribed,

the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.”; and

(ii) in sub-section (4), for the words and figures “within fourteen days after the 30th day of June and the 31st day of December in each year”, the words and figures “on or before the 20th day of January in the year following that to which the entries relate” shall be substituted.

13. In section 24 of the principal Act,—

Amendment
of section

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) When any accident of the nature referred to in any of the clauses of sub-section (1) of section 23 occurs in or about a mine, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(1A) If as a result of any inquiry held under sub-section (1) the person appointed to hold it is of opinion that any person possessing a certificate granted under this Act is *prima facie* guilty of incompetence or negligence or misconduct in the performance of his duties under this Act in relation to the accident, he shall hold a further inquiry in order to determine whether or not such person is fit to continue to hold such certificate.”;

(ii) in sub-section (2), the words and figures beginning with “and every person required” and ending with “Indian Penal Code” shall be omitted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The person holding an inquiry under this section

shall make a report in the prescribed manner to the Central Government stating the causes of the accident and the circumstances attending it and adding any observations which he or any of the assessors may think fit to make, and where the inquiry relates to any matter specified in sub-section (1A),⁵ stating whether a certificate held by any person should be suspended or cancelled."

Amendment
of section
30.

14. In section 30 of the principal Act,—

(i) to sub-section (1), the following proviso shall be added, namely:—

10

"Provided that, subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.";

(ii) for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that the Chief Inspector may, for reasons to be recorded in writing and subject to such conditions as he may deem fit to impose, permit the spread-over to extend over a period not exceeding fourteen hours in any day."; and²⁰

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Persons belonging to two or more shifts shall not be allowed to do work of the same kind above ground at the same time:"²⁵

Provided that, for the purposes of this sub-section, persons shall not be deemed to belong to separate shifts by reason only of the fact that they receive their intervals for rest at different times."

Substitution
of new sec-
tion for sec-
tion 31.
Hours of
work below
ground.

15. For section 31 of the principal Act, the following section shall³⁰ be substituted, namely:—

"31. (1) No adult employed below ground in a mine shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day:

Provided that, subject to the previous approval of the Chief³⁵ Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.

(2) No work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of

work for each shift is not spread over more than the daily maximum hours stipulated in sub-section (1).

(3) No person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under sub-section (4) of section 48."

16. For section 32 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 32.

16 "32. Where a person employed in a mine works on a shift which extends beyond midnight—

Night shift.

(a) for the purposes of sections 28 and 29, a weekly day of rest shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

15 (b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day."

17. In section 33 of the principal Act,—

Amendment
of section
33.

20 (i) for sub-section (1), the following sub-section shall be substituted, namely:—

25 "(1) Where in a mine a person works above ground for more than nine hours in any day, or works below ground for more than eight hours in any day or works for more than forty-eight hours in any week whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favourable to him;" and

30 (ii) in sub-section (3), for the words "such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains", the words "any dearness allowance and compensation in cash including such compensation, if any, accruing through the free issue of food-
35 grains" shall be substituted.

18. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 34.

40 "34. No person shall be required or allowed to work in a mine if he has already been working in any other mine within the preceding twelve hours."

Prohibition
of employ-
ment of cer-
tain persons.

Substitution
of new sec-
tion for sec-
tion 35.

19. For section 35 of the principal Act, the following section shall be substituted, namely:—

Limitation
of daily
hours of
work inclu-
ding over-
time work.

“35. Save in respect of cases falling within clause (a) and clause (e) of section 39, no person employed in a mine shall be required or allowed to work in the mine for more than ten 5 hours in any day inclusive of overtime”.

Amendment
of section
38.

20. In section 38 of the principal Act, in the proviso to sub-section (1), for the word “coal”, the word “mineral” shall be substituted.

Substitution
of new sec-
tion for sec-
tion 39.

21. For section 39 of the principal Act, the following section shall be substituted, namely:—

Power to
make ex-
empting
rules.

“39. Save in respect of adolescents, the Central Government may make rules providing for the exemption to such extent, in such circumstances and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or sub-section (5) of section 36—

(a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;

(b) of all or any of the persons so employed, in case of an accident, actual or apprehended;

(c) of all or any of the persons engaged in work of a preparatory or complementary nature, which must necessarily be carried on for the purpose of avoiding serious interference with the ordinary working of the mine;

(d) of all or any of the persons engaged in urgent 25 repairs; and

(e) of all or any of the persons employed in any work which for technical reasons must be carried on continuously.”.

Amendment
of section
40.

22. In section 40 of the principal Act, in sub-section (1), clause 30 (a) shall be re-lettered as clause (aa) thereof and before clause (aa) as so re-lettered, the following clause shall be inserted as clause (a), namely:—

“(a) he has completed his sixteenth year;”.

23. In section 42 of the principal Act, after the word "shall", the words, "subject to the conditions referred to in that section," shall be inserted.

Amendment
of section 42.

24. For section 43 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 43.

10 "43. (1) Where an Inspector is of opinion that any person employed in a mine is a child or is an adolescent without a certificate of fitness or is an adolescent with a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been certified that he is an adult or, if 15 an adolescent, he has been granted a certificate of fitness, or, as the case may be, a fresh certificate of fitness under section 40.

Power to
require
medical
examination

20 (2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a certifying surgeon on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein."

25 25. For section 44 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 44.

25 "44. (1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground in a mine—

Working
hours for
adolescents
not certified
to be fit for
work as
adults.

(a) for more than four and a half hours in any day, and

(b) between the hours of 6 p.m. and 6 a.m.

30 (2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not spread over more than five hours each, and there shall be no change of shifts except once in a period of thirty days and with the previous permission in writing of the Chief Inspector."

35 26. In section 45 of the principal Act, in sub-section (1), for the words "open excavation", the words "open cast working" shall be substituted.

Amendment
of section 45.

Substitution
of new sec-
tion for sec-
tion 26.

27. For section 46 of the principal Act, the following section shall be substituted, namely,—

Employment
of women.

“46. (1) No woman shall, notwithstanding anything contained in any other law, be employed—

(a) in any part of a mine which is below ground; 5

(b) in any mine above ground except between the hours of 6 a.m. and 7 p.m.

(2) Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on any one day and the com- 10
mencement of the next period of employment.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, vary the hours of employment above ground of women in respect of any mine or class or description of mine, so 15
however that no employment of any woman between the hours of 10 p.m. and 5 a.m. is permitted thereby.”

Omission of
section 47.

28. Section 47 of the principal Act shall be omitted.

Amendment
of section
48.

29. In section 48 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be 20
substituted, namely:—

“(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

(a) the name of the employee with the name of his 25
father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(b) the age and sex of the employee;

(c) the nature of employment (whether above 30
ground or below ground, and if above ground, whether in open cast workings or otherwise) and the date of commencement thereof;

(d) in the case of an adolescent, reference to the certificate of fitness granted under section 40; 35

(e) such other particulars as may be prescribed; and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.”;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) For every mine other than a mine which, for any 40
special reason to be recorded, is exempted by the Central

Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine—

- (a) below ground;
- 5 (b) above ground in open cast workings; and
- (c) above ground in other cases—
 - (i) the name of the employee;
 - (ii) the class or kind of his employment;
 - 10 (iii) where work is carried on by a system of relays, the shift to which he belongs and the hours of the shift.”; and

(iii) after sub-section (5), the following sub-section shall be inserted, namely:—

- 15. “(6) No person shall enter any open cast working or any working below ground unless he has been permitted by the manager or is authorised under this Act or any other law to do so.”.

30. For sections 49 to 56 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new sec-
tions for sec-
tions 49 to
56.

- 20 “49. The provisions of this Chapter shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:

25 Provided that when such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter, such person shall be entitled only to such longer leave.

- 30 50. For the purposes of this Chapter, leave shall not include weekly days of rest or holidays for festivals or other similar occasions whether occurring during or at either end of the period of leave.
- Leave
defined.

51. For the purposes of this Chapter, a calendar year shall mean the period of twelve months beginning with the first day of January in any year.

Calendar
year defined.

Annual leave
Wages.

52. (1) Every person employed in a mine who has completed a calendar year's service therein shall be allowed, during the subsequent calendar year, leave with wages, calculated,—

(a) in the case of a person employed below ground, at the rate of one day for every sixteen days of work performed by him, and 5

(b) in any other case, at the rate of one day for every twenty days of work performed by him.

(2) A calendar year's service referred to in sub-section (1) shall be deemed to have been completed,— 10

(a) in the case of a person employed below ground in a mine, if he has during the calendar year put in not less than one hundred and ninety attendances at the mine; and

(b) in the case of any other person, if he has during the calendar year put in not less than two hundred and forty 15 attendances at the mine.

Explanation.—For the purpose of this sub-section,—

(a) any days of lay-off by agreement or contract or as permissible under the standing orders;

(b) in the case of a female employee, maternity leave 20 for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be the days on which the employee has worked in a mine for the purpose of computation of the attend- 25 ances, but he shall not earn leave for these days.

(3) A person whose service commences otherwise than on the first day of January shall be entitled to leave with wages in the subsequent calendar year at the rates specified in sub-section (1), if— 30

(a) in the case of a person employed below ground in a mine, he has put in attendances for not less than one-half of the total number of days during the remainder of the calendar year; and

(b) in any other case, he has put in attendances for not 35 less than two-thirds of the total number of days during the remainder of the calendar year.

(4) Any leave not taken by a person to which he is entitled in any one calendar year under sub-section (1) or sub-section

(3) shall be added to the leave to be allowed to him under sub-section (1) during the succeeding calendar year:

5 Provided that the total number of days of leave which may be accumulated by any such person shall not at any one time exceed thirty days in all:

 Provided further that any such person who has applied for leave with wages but has not been given such leave in accordance with sub-section (6) shall be entitled to carry forward the unavailed leave without any limit.

10 (5) Any such person may apply in writing to the manager of the mine not less than fifteen days before the day on which he wishes his leave to begin, for all leave or any portion thereof then allowable to him under sub-sections (1), (3) and (4):

15 Provided that the number of times in which leave may be taken during any one calendar year shall not exceed three.

 (6) An application for such leave made in accordance with sub-section (5) shall not be refused unless the authority empowered to grant the leave is of opinion that owing to the exigencies of the situation the leave should be refused.

20 (7) If a person employed in a mine wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (5).

25 (8) If the employment of a person employed in a mine is terminated by the owner, agent or manager of the mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for and having not been granted such leave, quits his employment before he has taken the leave, the owner, agent or
30 manager of the mine shall pay him the amount payable under section 53, in respect of the leave not taken, and such payment shall be made, where the employment of the person is terminated by the owner, agent or manager, before the expiry of the second working day after such termination, and where a person himself
35 quits his employment, on or before the next pay day.

 (9) The unavailed leave of a person employed in a mine shall not be taken into consideration in computing the period of any notice required to be given before the termination of his employment.

Explanation.—For the purposes of sub-sections (1) and (3), any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

Wages during leave period.

53. For the leave allowed to a person employed in a mine under section 52, he shall be paid at a rate equal to the daily average of his total full-time earnings for the days on which he was employed during the month immediately preceding his leave, exclusive of any overtime wages and bonus but inclusive of any dearness allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and other articles as persons employed in the mine may, for the time being, be entitled to:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average of the total full-time earnings of all persons similarly employed for the same month.

Payment in advance in certain cases.

54. Any person employed in a mine who has been allowed leave for not less than four days, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

Mode of recovery of unpaid wages.

55. Any sum required to be paid by the owner, agent or manager of a mine under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936.

9 of 1936.

Power to exempt mines.

56. Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter."

Amendment of section 57.

31. In section 57 of the principal Act,—

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(i) in clause (c), for the words "qualifications of managers", the words and brackets "qualifications (including age) of agents and managers" shall be substituted;—

(ii) for clause (h), the following clause shall be substituted, namely:—

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"(h) for providing for inquiries to be made under this Act, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Act and for the suspension or cancellation of any such

of 1908.

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certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;”;

(iii) for clause (j), the following clause shall be substituted, namely:—

10

“(j) for prohibiting, restricting or regulating the employment of adolescents and women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;”;

15

(iv) for clauses (m) and (n), the following clauses shall be substituted, namely:—

20

“(m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;

25

(n) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of, any workings;”;

30

(v) for clause (p), the following clause shall be substituted, namely,—

of 1910.

35

(p) for regulating, subject to the provisions of the Indian Electricity Act, 1910, and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;”;

(vi) in clause (s),—

40

(a) after the words “explosions or ignitions”, the words “of inflammable gas or dust” shall be inserted;

(b) after the words "collapse of" wherever they occur, the word "workings" shall be inserted;

(vii) in clause (t), for the words "for prescribing the notices", the words, brackets, letter and figures "for prescribing under clause (g) of sub-section (1) of section 23, the types of accidents and for prescribing the notices" shall be substituted; 5

(viii) for clause (u), the following clause shall be substituted, namely:—

"(u) for prescribing the plans, and sections and field notes connected therewith, to be kept by owners, agents and managers of mines and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector; and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;" 15

(ix) in clause (x), for the words "public work or classes of public works which the Central Government may, by general or special order, specify in this behalf", the words "public roads or other works, as the case may be, which are maintained by the Government or any local authority" shall be substituted; 25

(x) after clause (y), the following clause shall be inserted, namely:—

"(yy) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner, agent or manager in the same manner as an arrear of land revenue;" 30

Amendment
of section
32.

32. In section 58 of the principal Act,—

(i) in clause (c), after the words "for the recovery of the expenses of such Courts", the words "including any other expenses connected with the inquiry" shall be inserted; 35

(ii) in clause (f), the words, "the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work" shall be omitted; 40

(iii) after clause (f), the following clauses shall be inserted, namely:—

5 “(ff) for providing for the supply and maintenance of medical appliances and comforts and for prescribing the contents and number of first-aid boxes and cupboards, the training in first-aid work, the size and equipment of first-aid rooms and staff in charge thereof and the arrangements for conveyance of injured persons to hospitals or dispensaries;

10 “(fff) for requiring the imparting of practical instruction to, or the training of, persons employed or to be employed in mines otherwise than in a position of supervision or management and for prescribing schemes for such instruction and training;”;

15 (iv) after clause (k), the following clause shall be inserted, namely:—

20 “(kk) for requiring persons employed or seeking employment at mines to submit themselves for medical examination and for prohibiting on medical grounds the employment of any person at a mine either absolutely or in a particular capacity or in particular work;”;

(v) for clause (l), the following clause shall be substituted, namely:—

25 “(l) for prescribing the form of registers required by section 48 and the maintenance and form of registers for the purposes of Chapter VII;”;

(vi) in clause (o), the words “one hundred and” shall be omitted;

30 (vii) in clause (s), for the word “miners”, the word “persons” shall be substituted; and

(viii) in clause (v), after the words “rescue brigades”, the following words shall be inserted, namely:—

“and for the terms and conditions of service of persons trained in rescue work employed in mines;”.

35 33. In section 59 of the principal Act,—

(i) sub-section (3) shall be omitted; and

(ii) in sub-section (4), for the word “rule” in both the places where it occurs, the words “regulation or rule” shall be substituted.

Amendment
of section
59.

Amendment
of section
60.

34. In section 60 of the principal Act,—

(i) for the brackets and figure “(3)”, the brackets and figure “(4)” shall be substituted;

(ii) the words, brackets and letters “clause (i) and clauses (j) to (s) excluding clause (l) of” and the word “previous” occurring after the words “and without” shall be omitted; and

(iii) for the words “two years”, the words “one year” shall be substituted.

Amendment
of section
64.

35. In section 64 of the principal Act,—

(i) for clause (d), the following clause shall be substituted, namely:—

“(d) falsifies any plan, section, register or record, the maintenance of which is required by or under this Act or produces before any authority such false plan, section, register or record, knowing the same to be false, or” and

(ii) for the words “five hundred rupees”, the words “one thousand rupees” shall be substituted.

Amendment
of section
65.

36. In section 65 of the principal Act, for the word “fifty”, the words “two hundred” shall be substituted.

Amendment
of section
66.

37. In section 66 of the principal Act, after the word “plan”, the word “section,” shall be inserted and for the words “two hundred”, the words “one thousand” shall be substituted.

Amendment
of section
67.

38. In section 67 of the principal Act,—

(i) for the words “five hundred”, the words “one thousand” shall be substituted, and

(ii) the words “and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued” shall be omitted.

Amendment
of section
69.

39. In section 69 of the principal Act,—

(i) for the words “five hundred”, the words “two thousand and five hundred” shall be substituted; and

(ii) the words “and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued” shall be omitted.

40. For sections 73 and 74 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 73 and 74.

5 "72A. Whoever contravenes any provision of any regulation or of any bye-law or of any order made thereunder, relating to matters specified in clauses (d), (i), (m), (n), (o), (p), (r), (s) and (u) of section 57 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Special provision for contravention of certain regulations.

10 72B. Whoever continues to work a mine in contravention of any order issued under sub-section (1A), sub-section (2) or sub-section (3) of section 22 shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five thousand rupees.

Special provision for contravention of orders under section 22.

15 72C. (1) Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder [other than an order made under sub-section (1A) or sub-section (2) or sub-section (3) of section 22], shall be punishable—

Special provision for contravention of law with dangerous results.

20 (a) if such contravention results in loss of life, with imprisonment which may extend to two years, or with fine which may extend to five thousand rupees, or with both; or

25 (b) if such contravention results in serious bodily injury, with imprisonment which may extend to one year, or with fine which may extend to three thousand rupees, or with both; or

30 (c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

35 (3) Any court imposing or confirming in appeal, revision or otherwise a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

General provision for disobedience of orders.

73. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both. 5 10

Enhanced penalty after previous conviction.

74. If any person who has been convicted for an offence punishable under any of the foregoing provisions (other than sections 72B and 72C) is again convicted for an offence committed within two years of the previous conviction and involving a contravention of the same provision, he shall be punishable for each such subsequent conviction with imprisonment for a term which may extend to six months, and shall also be liable to fine which may extend to two thousand rupees." 15

Substitution of new section for section 76.

41. For section 76 of the principal Act, the following section shall be substituted, namely:— 20

Determination of owner in certain cases.

"76. Where the owner of a mine is a firm or other association of individuals, all, or any of the partners or members thereof or where the owner of a mine is a company, all or any of the directors thereof or where the owner of a mine is a Government or any local authority, all or any of the officers or persons authorised by such Government or local authority, as the case may be, to manage the affairs of the mine, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable: 25

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,— 30

(a) in the case of a firm, any of its partners,

(b) in the case of an association, any of its members,

(c) in the case of a company, any of its directors, 35

who is resident in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in, such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, 40

member or director, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the owner of the mine for the purposes of this Act unless a notice in writing cancelling
5 his nomination or stating that he has ceased to be a partner, member or director, as the case may be, is received by the Chief Inspector.”

42. In section 77 of the principal Act, after the words “upon complaint made by him in this behalf”, the words “and on his furnishing
10 to the known address of the actual offender” shall be inserted. Amendment of section 77.

43. To section 79 of the principal Act, the following *Explanation* shall be added, namely:— Amendment of section 79.

“*Explanation.*—For the purposes of this section,—

15 (a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time has been extended under this Act, the period of limitation shall be computed from the expiry of the extended period.”

20 44. In section 82 of the principal Act, after the words “excavation or working”, the words “or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on” shall be inserted. Amendment of section 82.

25 45. Section 83 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 83.

30 “(2) The Central Government may, by general or special order and subject to such restrictions as it may think fit to impose, authorise the Chief Inspector or any other authority to exempt, subject to any specified conditions, any mine or part thereof from the operation of any of the provisions of the regulations or rules under this Act if the Chief Inspector or such authority is of opinion that the conditions in any mine or part
35 thereof are such as to render compliance with such provision unnecessary or impracticable.”

46. In section 85 of the principal Act, after the word “shall”, the word “also” shall be inserted. Amendment of section 85.

Insertion of
new section
85A.

Persons re-
quired to
give notice,
etc., legally
bound to do
so.

47. After section 85 of the principal Act, the following section shall be inserted, namely:—

“85A. Every person required to give any notice or to furnish any information to any authority under this Act shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code.”

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Mines Act, 1952, was passed with a view to amending and consolidating the law relating to the regulation of labour and safety in mines. The working of the Act has shown that it requires to be amended for various reasons, e.g., clarification of certain provisions, proper enforcement of certain others and insertion of some new provisions to bring the Act in line with those contained in the Factories Act, 1948. Some of the more important amendments sought to be made relate to—

(i) the definition of the term “mine” to make it clear that it includes quarries and opencast workings and also private railways, aerial ropeways, conveyors, etc.;

(ii) a new provision to the effect that subject to certain conditions the Act (excepting a few provisions) shall not apply to excavations made for prospecting purposes only and to small quarries;

(iii) the maintenance of first-aid rooms in mines wherein more than one hundred and fifty persons are employed, instead of five hundred persons as at present;

(iv) the prohibition of employment of persons in a mine when its owner, etc., fail to comply with the notice of the Inspectorate for remedying any matter, thing or practice connected with a mine, which is dangerous to human life, limb, or safety;

(v) the empowering of the person appointed under section 24 for inquiring into an accident also to inquire into the fitness of a person to hold a certificate granted to him under the Act, if he is of the opinion that the person concerned is *prima facie* guilty of incompetence or negligence or misconduct in the performance of his duties under the Act in relation to the accident;

(vi) the payment of overtime at a uniform rate of twice the ordinary rate of wages for persons employed both above and below ground, instead of the present rate of one and a half times, in the case of persons employed above ground, and twice, for persons employed below ground;

(vii) the revision of the Chapter on leave with wages so as to bring it as far as practicable in line with similar provisions in the Factories Act, 1948, which are considered to be more liberal; and

(viii) the enhancement of penalties for contravention of the different provisions of the Act to make punishment more deterrent by raising the scale of fines and also providing for imprisonment along with fine in the case of subsequent convictions for the same offence and for contravention of orders under section 22.

2. The reasons for the amendments are, wherever necessary, given in the notes on clauses attached to the Bill.

G. L. NANDA.

NEW DELHI,

The 22nd August, 1959.

Notes on clauses

Clause 2.—This clause seeks mainly to amend the definition of the terms “agent” and “mine” so as to make them more comprehensive and also to define the terms “managing agent”, “minerals”, “month”, “open-cast working”, “below ground”, and “above ground” for purposes of clarity.

Clause 3.—This clause introduces a new provision that, subject to certain conditions, the Act (excepting a few provisions) shall not apply to excavations for prospecting purposes only and to small quarries. These are at present exempted from the provisions concerned by an executive notification under section 83 of the Act, but it is felt that a provision in this regard should more appropriately be incorporated in the Act itself.

Clause 4.—It is the responsibility of the owner, etc., of a mine to carry out all operations connected with a mine in accordance with the Act and the regulations and rules framed thereunder. The existing requirement contained in sub-section (2) of section 6 that Inspectors should give information to the owner, etc., regarding changes in the regulations, etc., is, therefore, inappropriate as it might provide the owner, etc., with an excuse for ignoring them. Such a provision is not contained in the Factories Act. Hence the amendment seeking to delete sub-section (2).

The new provision for delegation of responsibility by the Chief Inspector of Mines to officers working under him is considered necessary in the interest of speed and efficiency in the disposal of cases.

Clause 5.—This amendment is intended to enable the Inspectorate to seize defective materials (such as safety lamps, mechanical appliances, etc.) also.

Clause 9.—The proviso to sub-section (2) of section 18 has been deleted as it weakens proceedings against the owner or agent of a mine, who by virtue of his position and influence over the supervising staff can lay the blame for any contravention on the manager. The amendment to section 18(3) is merely consequential.

Clause 10.—The amendment is necessary as in coal mines where workers are supplied with water bottles, there is no necessity for providing water at suitable points underground also.

Clause 11.—Proposed section 21: The scale prescribed for first-aid boxes in sub-section (1) of section 21 is considered inadequate. The number of first aid boxes to be provided will depend upon various factors and it will be more appropriate to prescribe details in this regard in the rules framed under the Act.

The amendments to sub-sections (2) and (3) make them more specific and are on the lines of the corresponding provisions in the Factories Act, 1948.

Unlike work in factories, work in mines—particularly work below ground—is more hazardous. It is, therefore, necessary that arrangements should be available for transport of injured persons to hospitals or dispensaries and that first-aid rooms should be provided in mines wherein more than one hundred and fifty persons, instead of five hundred as at present, are employed.

Proposed section 22: There is no provision at present for taking action against an owner, etc., of a mine for failure to comply with a notice under sub-section (1). The proposed sub-section (1A) is necessary to remove this lacuna. Apart from the consequential amendments made in the subsequent sub-sections, provision has also been made to cover mines where “blocks of minerals” are formed as is the practice in mines other than coal mines and where extraction or reduction of pillars or blocks of minerals is attended with undue risk to the persons employed in such operations or where there is danger to the mine due to inundation or irruption of water from surface or a neighbouring mine. The whole of section 22 has been recast to include the above amendments.

Clause 12.—(i) Sub-section (1) of section 23 has been recast to require submission of notices in certain other cases of accidents also and to reduce the period for which notice of accident is to be posted on the notice board at the mine from two months to fourteen days.

(ii) The amendment to sub-section (4) is necessary for the sake of administrative convenience.

Clause 13.—(i) The amendment to sub-section (1) of section 24 is of a drafting nature.

It is necessary that certificates granted under the Act to persons who are guilty of misconduct or negligence in the performance of their duties in relation to an accident are suspended or cancelled as early as possible after the accident as their continuance may be prejudicial to the safety of the mine. A new sub-section (1A) is, therefore, sought to be inserted to provide for the person appointed under sub-section (1) to hold an inquiry into an accident to hold a further inquiry into the fitness of such persons to hold the certificate

granted under the Act. This would obviate much of the delay involved at present in setting up a second Court of Inquiry under the regulations to go into the matter.

(ii) A new section 85A has been inserted in this regard (*vide* clause 47) and hence this deletion.

(iii) This amendment is consequential to (i) above.

Clause 14.—(i) This amendment is necessary as the proviso to section 35 is sought to be deleted, *vide* clause 19.

(ii) In the light of the I.L.O. Convention No. 89 with respect to the restriction of employment of women at night, it is necessary to empower the Chief Inspector to lay down conditions before granting exemption.

(iii) The present provision is suitably re-worded because a single person cannot be said to belong to two or more relays or shifts at the same time.

Clause 15.—Provision in regard to pump-minders, onsetters, etc., has been deleted from section 31 as section 39 (clause 21) empowers the Government to make rules in this regard. A proviso has been added to sub-section (1) in the light of the amendment to section 35, *vide* clause 19.

Clause 16.—The amendment brings the provision in line with section 57 of the Factories Act, and is more specific than the existing provision.

Clause 17.—(i) This clause removes the distinction in the matter of payment of overtime wages between workers employed below ground and those employed in other parts of the mine. A reference to the daily maximum hours of work in excess of which overtime is admissible has also been included.

(ii) In coal mines certain cash concessions are given on the basis of attendance and it is necessary to take into account such compensation in cash for the purpose of computation of "ordinary rate of wages". As it is difficult to reckon the cash equivalent of foodgrains issued on a concessional basis (which varies from person to person, depending upon the size of his family), it is considered desirable to take into account only the cash equivalent of the advantage accruing through the sale of foodgrains which is identical for all persons.

Clause 18.—The amendment is on the lines of section 60 of the Factories Act, which is more explicit.

Clause 19.—The limit on overtime for the quarter is proposed to be deleted as it is not workable. The proviso has also been

deleted in view of the amendments to sections 30, 31 and 39 (clauses 14, 15 and 21).

Clause 20.—The proposed amendment is of a drafting nature.

Clause 21.—This clause seeks to exclude adolescents from the scope of section 39 and to bring within its purview persons engaged in work of a preparatory or complementary nature which must necessarily be carried on for the purpose of avoiding serious interference with the ordinary working of the mine.

Clause 22.—The amendment is necessary in view of the I.L.O. recommendation No. 96, fixing the minimum age for admission to work underground in coal mines at 16 years.

Clause 23.—The amendment removes the conflict between the existing sections 42 and 40.

Clause 24.—The provision contained in the existing section 47 has been more appropriately incorporated here and section 47 has been deleted.

Clause 25.—The reference to open-cast workings, etc., in sub-section (1) of section 44 is not necessary in the light of the amendment in clause 2(ii). The amendment to sub-section (2) of section 44 is necessary as the present sub-section overlaps the provision already contained in section 30(3) which applies to both adult and adolescents employed above ground. Sub-section (3) has been deleted in view of the saving clause introduced in the amendment of section 39 with respect to adolescents.

Clause 26.—The proposed amendment is of a drafting nature.

Clause 27.—The expression “below the adjacent ground level” may be interpreted to mean open-cast workings also, which is not the intention. The amendment clarifies this point. The proposed section 46(2) has been considered necessary in order to give effect to I.L.O. Conventions Nos. 4 and 89 in respect of night work for women. The whole section has been recast for the sake of greater clarity.

Clause 28.—In the light of the amendment envisaged in clause 24, section 47 is redundant.

Clause 29.—(i) This amendment seeks to delete clauses (d), (e) and (g) of the existing sub-section (1) of section 48 as it is difficult and also unnecessary to enter the particulars required therein in the register to be maintained under this sub-section. The register maintained under sub-section (4) will contain particulars such as hours of work, attendance, etc., of the persons employed in the mine.

(ii) The amendment to clause (b) of sub-section (4) of section 48 is necessary to distinguish the categories of work or job-names to which persons belong.

,iii) For considerations of safety, it is necessary to have a provision prohibiting unauthorised entry in open-cast workings and workings below ground.

Clause 30.—This clause replaces the provisions contained in section prohibiting unauthorised entry in open-cast workings and workings proposed to be made are:

(1) the term “calendar year” has been defined on the lines of a similar provision in the Factories Act, 1948;

(2) the distinction between employees paid on monthly basis, piece-rate basis and others employed either above ground or below ground has been removed and the rate of leave increased. Under the proposed amendment, a person employed below ground is eligible for leave at the rate of one day for every sixteen days of work performed by him during a calendar year and in any other case, at the rate of one day for every twenty days. A calendar year's service shall be deemed to have been completed in the case of a person employed below ground, if he has during the calendar year put in not less than one hundred and ninety attendances at the mine, and in the case of any other person, not less than two hundred and forty attendances;

(3) in the proposed section 52(2) a new explanation has been included to make it clear that absence due to lay-off or maternity leave or leave earned in the previous year will also be computed for the purpose of attendance;

(4) provision has been made on the lines of the Factories Act, 1948, for grant of leave to a person whose service commences otherwise than on the first day of the calendar year;

(5) accumulation of leave at present is permitted only to the monthly-rated employees of mines while in factories such accumulation is permitted irrespective of whether the employee is monthly-rated or daily-rated or piece-rated. This distinction has been removed;

(6) provision has been made to cover periods of absence due to sickness and in such cases prior application on the part of the persons is not necessary;

(7) wages during leave, in the case of all persons, have been uniformly made to relate to the respective full-time earnings during

the month immediately preceding such leave excluding any payment for overtime and bonus; and

(8) unpaid wages for the leave period have been made recoverable as delayed wages under the Payment of Wages Act, 1936 as the provision contained in the existing section 54 leads to administrative difficulties.

Clause 31.—(i) A provision has been made in sub-clause (i) for prescribing the qualifications of agents. This is to ensure that only properly qualified agents take part in the technical management of a mine.

(ii) Existing clause (h) provides only for the making of inquiries into the conduct of managers and of persons acting under them. As an agent does not come under the category of such persons, it is proposed to amend clause (h) to provide for inquiries to be made into charges of misconduct or incompetency on the part of any person holding a certificate under the Act. Provision has also been made to vest the person conducting the inquiry with the powers of a civil court for enforcing the attendance of witnesses and compelling the production of documents.

(iii) Provision has been made in clause (j) to restrict the employment of adolescents also in certain categories of work such as carrying excessive loads which may be injurious to the health of such persons.

(iv) Clauses (m) and (n) are being amplified to cover certain additional matters such as providing for safety during reduction of pillars or blocks of minerals, restriction of workings in the vicinity of any accumulation of water (whether natural or artificial), and precautions to be taken against irruption or inrush of water or any other liquid matter.

(v) Provision has been made for framing regulations in regard to use of electricity and the care and maintenance of electrical apparatus and electrical cables in mines. This is considered necessary, as with the growing use of electricity in mines, there is greater possibility of accidents from this source and it is desirable to include in the regulations all the relevant provisions instead of the existing ones contained in the Indian Electricity Rules.

(vi) In clause (s) reference has to be made to inflammable gas and also to dust as in certain mines coal dust is explosive in character if sufficient concentration is present in the mine atmosphere. The reference to premature collapse is in respect of mine workings and this has been made clear.

(vii) The proposed amendment to clause (t) is consequential on the amendment to section 23 envisaged in clause 12.

(viii) It is necessary to include in clause (u) "sections" also with "plans", because where a coal or other mineral deposit is steep, it is necessary to maintain separate sections as well as plans. Also in the preparation of plans and sections, field notes form an important part of the record and it is necessary that such records should also be maintained in the office of a mine for verification of surveys. Wrong plans are liable to endanger safety in mines and it is necessary that power should be available for requiring a fresh survey to be conducted and, in the event of non-compliance, for getting the plans prepared by any other agency.

(ix) "Public works" has been defined to include public roads or other works maintained by the Government or any local authority.

(x) Clause (yy) is necessary for preventing any danger to surface structures as also to neighbouring mines.

Clause 32.—(i) The proposed amplification of clause (c) is necessary lest persons concerned should hesitate to come forward to give evidence.

(ii) With the progressive mechanisation of mines it is necessary that employees undergo vocational training. A provision has been included in this regard in clause (fff).

(iii) Hazards, such as occupational diseases arising out of inhalation of injurious dust, will be on the increase with the growing mechanisation of mines. It is, therefore, desirable that persons employed in mines should be required when necessary to undergo periodical medical examination. Clause (kk) seeks to make such a provision.

(iv) Unlike a factory, work in a mine is carried on at several scattered points such as open-cast workings, loading points, etc., by one or more groups of workers and there is necessity for a shelter at each place. The scale proposed in clause (o) would meet the requirement at most of the mines.

(v) The proposed amendment to clause (s) is intended to remove the ambiguity as to whether the representation of the workers on the Rescue Stations Committee is to be for miners only.

(vi) Rescue-trained persons should be available for duty at odd hours immediately after they are alerted of a danger. It is, therefore, necessary that there should be provision in the rules requiring mine owners to provide residential accommodation to such persons at the mine and also for payment of allowance to them. Clause (v) as amended is intended to achieve that object.

Clause 33.—Sub-sections (3) and (4) of section 59 are for identical purposes, but it has been provided in sub-section (3) that *before* the draft of any new regulation is published for criticism it has to be circulated to Mining Boards: whereas in the case of rules such reference may be made *after* the publication of the draft. The procedure to be followed in the case of regulations makes for delay, and should be same as that for rules.

Clause' 34.—In framing temporary regulations in an emergency, it may become necessary to make provisions with respect to matters other than those referred to in the existing section 60. The period during which such regulations shall remain in force is, however, proposed to be reduced from two years to one year.

Clauses 35 to 40.—These clauses seek to amend sections 64, 65, 66, 67 and 69 of the Act and to substitute new sections for sections 73 and 74. These sections relate to the punishment that may be imposed for contravention of different provisions of the Act. In mines, violation of statutory provisions has a special significance as the safety of limbs and lives of the persons employed depends upon the proper observance of the provisions. Experience has shown that the penalty laid down for contravention at present is not of a sufficiently deterrent nature and it has, therefore, been increased. The other important amendments proposed are:

(a) Insertion of a new provision (proposed section 72B, clause 40) for contravention of orders under section 22 of the Act; such contravention has been made punishable with imprisonment which may extend to two years and fine which may extend to five thousand rupees. Section 22 is an important one, empowering Inspectors to act in situations dangerous to human life, health or safety.

(b) The provision regarding additional penalty for continued contravention contained in sections 67 and 69 (clauses 38 and 39) is proposed to be deleted in view of the inclusion of a new provision regarding enhanced penalty after previous conviction (proposed section 74, clause 40).

Clause 41.—The proposed amendment is intended to prevent mine owners who take full and active part in the management of the mine from escaping liability as owner by nominating someone else as owner. The clause has been made applicable to the Government and local authorities also.

Clause 42.—This is to ensure that the address of the actual offender is made known to the Court so that he may be traced in case he absconds.

Clause 43.—Under the existing provision no prosecution can lie under the Act even if the contravention continues, once the period of six months from the date of the alleged offence or the date on which the alleged offence came to the knowledge of the Inspector has expired. This is an unsatisfactory situation which requires to be remedied. The proposed amendment seeks to provide that, in the case of a continuing offence, a fresh period of limitation would begin to run from every moment of the time during which the offence continues and where time has been extended for the performance of any act, the period of limitation shall be computed from the expiry of the extended period.

Clause 44.—This is necessary for deciding whether any mineral dressing or preparation plant, regarding which a doubt arises, falls under the Act or not.

Clause 45.—For administrative reasons it is considered necessary that the Chief Inspector or any other authority responsible for the enforcement of the regulations and rules made under the Act should be empowered to grant exemption or relaxation from any of the provisions of the regulations or rules, as the case may be, which is considered unnecessary or impracticable in the case of any particular mine.

Clause 46.—The amendment is merely clarificatory.

Clause 47.—This is in lieu of the provision already existing in sections 14(2) and 24(2) from where it has been deleted, *vide* clauses 7 and 13.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Mines Act is administered by the Central Government. Clauses 31 and 32 of the Bill amplify the regulation- and rule-making powers conferred by sections 57 and 58 of the principal Act. By these amendments, the regulation-making power is expressly extended to cover additional safety precautions to be observed in mines, including construction of protective works before a mine is closed so that danger to surface and neighbouring mines is minimised. Similarly, the rule-making power is expressly extended to cover the training of miners, medical examination of persons employed in mines, etc.

The regulation- and rule-making powers thus sought to be conferred by clauses 31 and 32 are of a routine and general character.

M. N. KAUL,
Secretary.